

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMIE S. et al.,

Plaintiffs,

v.

Case No. 01-CV-928

**MILWAUKEE BOARD OF SCHOOL DIRECTORS,
MILWAUKEE PUBLIC SCHOOLS,
and WILLIAM G. ANDREKOPOULOS,
Superintendent Milwaukee Public Schools,
in his official capacity, and
the STATE OF WISCONSIN,
DEPARTMENT OF PUBLIC INSTRUCTION and
ELIZABETH BURMASTER,
State Superintendent of Public Instruction, in her official capacity,**

Defendants.

ORDER ON DEFENDANT'S MOTION IN LIMINE

The defendant Milwaukee Public Schools ("MPS") has filed a motion in limine to strike portions of the expert report of plaintiffs' expert Dr. Rogers-Adkinson, and to also prevent her from testifying as to the matters stricken. The plaintiffs have filed their response to the motion.

In their response, plaintiffs state that they "do not oppose MPS' motion in principle." In other words, any portion of the report, or any testimony, that pertains to children who have had timely evaluations by a properly constituted IEP team should be stricken for purposes of Phase I of the trial. However, plaintiffs state that MPS is also seeking to strike portions of the report that deal with the expert's review and report of students who were not identified as in need of special

education, but were suspended for 10 or more days. Plaintiffs submit that these students are potential class members and an appropriate subject for testimony at trial. It is plaintiffs' position that the defendant MPS failed its child find obligations for this group of students.

It appears that the admissibility of this particular portion of the report, and testimony relating to it, must be reserved for trial. Based upon a review of the summary of Dr. Rogers-Adkinson's report, the court is unable to rule in advance as to whether it is relevant to the class. Therefore, the court will grant the defendant's motion, except as to this particular area.

Accordingly,

The defendant MPS' motion to strike portions of the report of Dr. Rogers-Adkinson, and testimony relating to those portions, is granted in part and denied in part. The challenged portions of the report so stricken are those pertaining to children who have received their IEP in a timely and appropriate manner. The challenged portions of the report not stricken pertain to children who have been suspended for 10 or more days, subject to the court's determination of admissibility at trial.

Dated at Milwaukee, Wisconsin, this 14th day of October, 2005.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge